

MEMO ENDORSED

INTERLOCUTORY APPEAL

CASE 08 Civ 02371 (RMB)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STANTON STERLING SCHULTZ

Plaintiff,

-against-

BANCO SAFRA/ SAFRA NATIONAL BANK
OF NEW YORK (SAFRA GROUP)

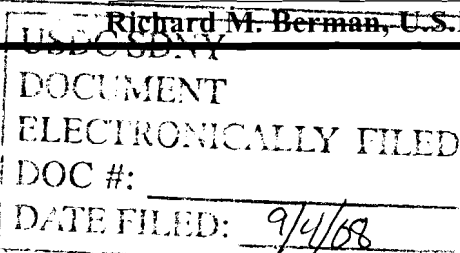
Defendants.

The Court's June 17, 2008 Order [#16] does not "(1) involve a controlling question of law, (2) as to which there is substantial ground for difference of opinion, and (3) an immediate appeal [will not] materially advance the ultimate termination of the litigation." Nesbeit v. G.E., No. 04 Civ. 9321, 2005 U.S. Dist. LEXIS 5116, at *9-10 (S.D.N.Y. Mar. 31, 2005); Wasau Bus. Ins. Co. v. Trident Mech. Sys., Inc., 151 F. Supp. 2d 488, 492 (S.D.N.Y. 2001); 28 U.S.C. § 1292(b). Plaintiff has not met his burden of showing "exceptional circumstances" to justify certification of this Court's June 17, 2008 Order for an interlocutory appeal. See Klinghoffer v. S.N.C. Achille, 921 F.2d 21, 25 (2d Cir. 1990).

Dated: September 4, 2008
New York, NY

RMB

Richard M. Berman, U.S.D.J.



Introduction:

Honorable Judge Berman issued an order on June 17, 2008 denying Plaintiff's Motion to Remand Case back to the Supreme Court of New York based on joinder of additional defendants, where Case was filed on February 7, 2008 and later removed by defendant's counsel to the U.S. District Court- Southern District of New York.

In the Court Order dated June 17, 2008, Judge Berman, on page 3, footnoted, confirms that "The Court is ruling only upon the issue of remand/removal, not upon Plaintiff's application to add new defendants nor upon Defendant's application, if any, to dismiss claims and/or parties other than SNB."

Plaintiff proceeded to file a Motion for Reconsideration of his request to remand on July 1, 2008, which Honorable Judge Berman denied once again by his order dated July 30, 2008. This Order included a dismissal of the action (contrary to Plaintiff's original request for joinder of additional defendants) against one of the defendants: Safra National Bank of New York.